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to assure payment as required by statute of all persons supplying labor and material in the execution of the work provided for in the contract.

(4) Where bonds are required in the situations described herein, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties pursuant to 31 CFR part 223, "Surety Companies Doing Business with the United States."

(d) All negotiated contracts (except those for less than the small purchase threshold) awarded by recipients shall include a provision to the effect that the recipient, DOL, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts and transcriptions.

(e) All contracts, including small purchases, awarded by recipients and their contractors shall contain the procurement provisions of Appendix A to this part, as applicable.

### *Reports and Records*

#### **§ 95.50 Purpose of reports and records.**

Sections 95.51 through 95.53 set forth the procedures for monitoring and reporting on the recipient's financial and program performance and the necessary standard reporting forms. They also set forth record retention requirements.

#### **§ 95.51 Monitoring and reporting program performance.**

(a) Recipients are responsible for managing and monitoring each project, program, subaward, function or activity supported by the award. Recipients shall monitor subawards to ensure subrecipients have met the audit requirements as delineated in § 95.26.

(b) DOL shall prescribe the frequency with which performance reports shall be submitted. Except as provided in paragraph (f) of this section, performance reports shall not be required more frequently than quarterly or, less frequently than annually. Annual reports shall be due 90 calendar days after the grant year; quarterly or semi-annual

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reports shall be due 30 days after the reporting period. DOL may require annual reports before the anniversary dates of multiple-year awards in lieu of these requirements. The final performance reports are due 90 calendar days after the expiration or termination of the award.

(c) If inappropriate, a final technical or performance report shall not be required after completion of the project.

(d) When required, performance reports shall generally contain, for each award, brief information on each of the following:

(1) A comparison of actual accomplishments with the goals and objectives established for the period, the findings of the investigator, or both. Whenever appropriate and the output of programs or projects can be readily quantified, such quantitative data should be related to cost data for computation of unit costs.

(2) Reasons why established goals were not met, if appropriate.

(3) Other pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

(e) Recipients shall not be required to submit more than the original and two copies of performance reports.

(f) Recipients shall immediately notify DOL of developments that have a significant impact on the award-supported activities. Also, notification shall be given in the case of problems, delays, or adverse conditions which materially impair the ability to meet the objectives of the award. This notification shall include a statement of the action taken or contemplated, and any assistance needed to resolve the situation.

(g) DOL may make site visits, as needed.

(h) DOL shall comply with clearance requirements of 5 CFR part 1320 when requesting performance data from recipients.

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#### **§ 95.52 Financial reporting.**

(a) The following forms or such other forms as may be approved by OMB are authorized for obtaining financial information from recipients:

(1) SF-269 or SF-269A, Financial Status Report.

(i) Recipients shall use the SF-269, SF-269A, or other OMB-approved forms to report the status of funds for all nonconstruction projects or programs. DOL may, however, have the option of not requiring the SF-269 or SF-269A when the SF-270, Request for Advance or Reimbursement, or SF-272, Report of Federal Cash Transactions, is determined to provide adequate information to meet its needs, except that a final SF-269 or SF-269A shall be required at the completion of the project when the SF-270 is used only for advances.

(ii) DOL shall prescribe whether the report shall be on a cash or an accrual basis. If DOL requires accrual information and the recipient's accounting records are not normally kept on the accrual basis, the recipient shall not convert its accounting system, but shall develop such accrual information through best estimates based on an analysis of the documentation on hand.

(iii) DOL shall determine the frequency of the Financial Status Report for each project or program, considering the size and complexity of the particular project or program. However, the report shall not be required more frequently than quarterly or less frequently than annually. A final report shall be required at the completion of the agreement.

(iv) Recipients shall submit to DOL the SF-269, SF-269A, or other OMB-approved forms (an original and no more than two copies) no later than 30 days after the end of each specified reporting period for quarterly and semi-annual reports, and 90 calendar days for annual and final reports. Extensions of reporting due dates may be approved by DOL upon request of the recipient.

(2) SF-272, Report of Federal Cash Transactions.

(i) When funds are advanced to recipients, the recipient shall submit the SF-272 and, when necessary, its continuation sheet, SF-272a. DOL shall use this report to monitor cash advanced to recipients and to obtain disbursement information for each agreement with the recipients.

(ii) DOL may require forecasts of Federal cash requirements in the "Remarks" section of the report.

(iii) When practical and deemed necessary, DOL may require recipients to report in the "Remarks" section the amount of cash advances received in excess of three days. Recipients shall provide short narrative explanations of actions taken to reduce the excess balances.

(iv) Recipients shall submit not more than the original and two copies of the SF-272 15 calendar days following the end of each quarter. The DOL agency may require a monthly report from those recipients receiving advances totaling \$1 million or more per year.

(v) DOL may waive the requirement for submission of the SF-272 for any one of the following reasons:

(A) When monthly advances do not exceed \$25,000 per recipient, provided that such advances are monitored through other forms contained in this section;

(B) If, in DOL's opinion, the recipient's accounting controls are adequate to minimize excessive Federal advances; or,

(C) When the electronic payment mechanisms provide adequate data.

(b) When DOL needs additional information or more frequent reports, the following shall be observed.

(1) When additional information is needed to comply with legislative requirements, DOL shall issue instructions to require recipients to submit such information under the "Remarks" section of the reports.

(2) When DOL determines that a recipient's accounting system does not meet the standards in § 95.21, additional pertinent information to further monitor awards may be obtained upon written notice to the recipient until such time as the system is brought up to standard. DOL, in obtaining this information, shall comply with report clearance requirements of 5 CFR part 1320.

(3) DOL may shade out any line item on any report if not necessary.

(4) DOL may accept the identical information from the recipients in machine readable format or computer printouts or electronic outputs in lieu of prescribed formats.

(5) DOL may provide computer or electronic outputs to recipients when

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such expedites or contributes to the accuracy of reporting.

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### **§ 95.53 Retention and access requirements for records.**

(a) This section sets forth requirements for record retention and access to records for awards to recipients. DOL shall not impose any other record retention or access requirements upon recipients.

(b) Financial records, supporting documents, statistical records, and all other records pertinent to an award shall be retained for a period of three years from the date of submission of the final expenditure report or, for awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, as authorized by DOL. The only exceptions are the following:

(1) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken.

(2) Records for real property and equipment acquired with Federal funds shall be retained for 3 years after final disposition.

(3) When records are transferred to or maintained by DOL, the 3-year retention requirement is not applicable to the recipient.

(4) Indirect cost rate proposals, cost allocations plans, etc., as specified in paragraph (g) of this section.

(c) Copies of original records may be substituted for the original records if authorized by DOL.

(d) DOL shall request transfer of certain records to its custody from recipients when it determines that the records possess long term retention value. However, in order to avoid duplicate recordkeeping, DOL may make arrangements for recipients to retain any records that are continuously needed for joint use.

(e) The Federal grantor awarding agency, the Inspector General, the Comptroller General of the United States, or any of their duly authorized representatives, have the right of time-

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ly and unrestricted access to any books, documents, papers, or other records of recipients that are pertinent to the awards, in order to make audits, examinations, excerpts, transcripts and copies of such documents. This right also includes timely and reasonable access to a recipient's personnel for the purpose of interview and discussion related to such documents. The rights of access in this paragraph are not limited to the required retention period, but shall last as long as records are retained.

(f) Unless required by statute, DOL shall not place restrictions on recipients that limit public access to the records of recipients that are pertinent to an award, except when DOL can demonstrate that such records shall be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. § 552) if the records had belonged to DOL.

(g) Indirect cost rate proposals, cost allocations plans, etc. Paragraphs (g)(1) and (g)(2) of this section apply to the following types of documents, and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

(1) If submitted for negotiation. If the recipient submits to DOL or the subrecipient submits to the recipient the proposal, plan, or other computation to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts on the date of such submission.

(2) If not submitted for negotiation. If the recipient is not required to submit to DOL or the subrecipient is not required to submit to the recipient the proposal, plan, or other computation for negotiation purposes, then the 3-year retention period for the proposal, plan, or other computation and its supporting records starts at the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

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